UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/SR.29
16 April 1991

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 18 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

later: Mr. AMOO-GOTTFRIED (Ghana)

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GE.91-10677/3083B

The meeting was called to order at 10.25 a.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

(agenda item 10) (continued) (E/CN.4/1991/15-17, 19, 20 and Add.1, 49 and 66; E/CN.4/1991/NGO/4, 17, 19-22, 24 and 33; A/45/590 and 633; A/RES/45/142 and 143; E/CN.4/Sub.2/1990/11, 27, 29 and Add.1, 32, 33 and Add.1 and Add.2 and 34; E/CN.4/Sub.2/1989/30/Rev.2)

1. Mr. MEZZALAMA (Italy) paid a tribute to the Special Rapporteur on questions relating to torture, Mr. Kooijmans, for his latest report (E/CN.4/1991/17) under Commission resolution 1990/34. The reports prepared by the Special Rapporteur since 1986 were one of the most useful tools in evaluating allegations of torture or ill-treatment.

2. In the 1989 report, the Special Rapporteur had referred to cases of ill-treatment of arrested people and detainees in Italy in 1988. The Italian Government had provided the Special Rapporteur with the information requested, including information on the legal measures taken to investigate the facts in question.

3. Since the entry into force of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the setting up of the Committee against Torture, the work of the Special Rapporteur had been mainly devoted to investigation of urgent appeals, which were filed more and more frequently, and conducting follow-up action and visits. For that reason and because of the need to institutionalize such services, Italy was favourable to the idea of establishing, through an optional protocol to the Convention against Torture, a special sub-committee to visit places of detention in States that accepted that additional procedure. That would replicate, at the world level, the system set up by the Council of Europe in the context of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. A further reason for interest was that the proposed additional protocol had been revised by a group of independent experts. The draft prepared by Costa Rica (E/CN.4/1991/66) should also be examined by the Commission at its following session. Finally, Italy, having ratified the Convention against Torture, would be submitting its initial report during the current year.

4. In its latest report on the question of enforced or involuntary disappearances (E/CN.4/1991/20), the Working Group stressed the difficulty of gathering information on alleged cases and on other problems faced in executing its mandate. That report, which was well-presented and included statistical tables, contained conclusions of general interest (paras. 402-414) which called for some additional remarks. His delegation shared the Working Group's hesitancy in considering the decrease in the number of cases dealt with to be an established fact. Moreover, in the first place, impunity was,

per se, no matter what the reason, an international offence, and any State which assured such impunity, in fact or by law, was defaulting on its obligations under existing international instruments. In the second place, his delegation shared the Working Group's concern regarding the need to protect individuals or organizations that cooperated in the investigation of cases of disappearance. The Working Group should receive more support in that respect and perhaps be given a more specific mandate. Finally, the visit of two members of the Working Group to the Philippines, as reported in document E/CN.4/1991/20/Add.1, and the options they had recommended to that country's cooperative Government for consideration, were a significant and positive development.

5. Mr. WAKELEY (International Educational Development, Inc.) said that in Sri Lanka, 4,000 persons arrested by government forces had died or disappeared in the eastern segment of the North-East Province alone during the previous six months. Some had disappeared without trace; in other cases the bodies of the victims had been found, bearing marks of torture. As for the situation in the south of Sri Lanka, the report of the mission by the European Parliament which had visited the country from 27 October to 4 November 1990 indicated that since 1987 at least 60,000 people - or one in every 250 - had disappeared in that part of the country. There had been reports of continuing disappearances, at the rate of 20 to 50 per week, in the Kandy area in 1990. Thus it was most alarming that the Deputy Minister of Defence had implied, on 7 February 1991, that the Sri Lankan air force was deliberately targeting civilians because it was unable to strike at the Tamil Tigers who still controlled most of the north. The Deputy Minister had added that the entire population of Jaffna, or nearly 1 million people, would have to take refuge in the south, where the Government was willing to accommodate them in camps. It might, however, be wondered what their fate would be in the hands of a Government whose record of behaviour against detainees and refugees was far from comforting.

6. China, which supplied the Sri Lankan Government with weapons, was another subject of concern. Large numbers of persons arrested after 4 June 1989 for exercising their fundamental freedom of expression and assembly had disappeared without trace. In many cases, next of kin had not been notified of the arrests until over a year later. The place of detention had never been disclosed, and no contacts with detainees had been allowed. Innocent citizens had been detained without charge for months, in violation of the Chinese Constitution, articles 9 (2) and (3) of the International Covenant on Civil and Political Rights and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. No evidence had been submitted to the defence before the trials, which had often been carried out on extremely short notice. Defendants had not been able to engage their own defence lawyer, and all trials had been closed to the public. The case of Chen Zeming and Wang Juntao dramatically illustrated that situation. Arrested and detained without charge in late 1989, accused of sedition, counter-revolutionary propaganda and agitation, they had been tried and sentenced to 13 years' imprisonment on 2 December 1990, without being given time to prepare their defence.

7. The Commission should encourage the Sri Lankan Government to negotiate a cease-fire and allow a rapporteur to investigate all human rights violations and prevail upon the Chinese Government to permit independent observers to follow all future political trials.

8. Mr. CUSTODIO LOPEZ (Service Justice and Peace in Latin America) said that torture was still a routine method of investigation and interrogation in numerous countries. In Honduras, where institutionalized torture had been going on for 10 years, 96 persons were alleged to have died in 1990, 92 of them at the hands of the armed forces. Three of them were still being wrongly accused of having murdered the trade-union leader, Francisco Bonilla, on 31 May 1990. In Peru, an inquiry by the Senate Legal Committee into the case of a minor abducted and tortured by the military had not led to the punishment of the culprits.

9. Although the enforced or involuntary disappearance of persons was a crime against humanity, it was not specifically defined as an offence in national bodies of legislation, and the adoption of a declaration was still pending, not to speak of a convention at the regional and international level. The crime of enforced or involuntary disappearance continued to be practised with impunity in numerous countries, as indicated by the latest report of the Working Group (E/CN.4/1991/20 and Add.1), which indicated 962 new cases in 19 countries, Peru being at the top of the list for the fourth year running, with 232 disappearances (23 per cent of the total). According to the Procurator for Human Rights of Guatemala, there had been 140 disappearances in the country in 1990, and according to the Mutual Support Group, 139 applications for habeas corpus had been filed between 1987 and 1989, with only 3 of them leading to positive results; 14 of the individuals in question had reportedly been executed, while 122 were said to be still missing.

10. In Honduras, the armed forces had submitted a report in 1985 that had turned out to be nothing but a hoax. The current Government had again promised to open an investigation by the Minister of the Interior and Justice into the disappearance of a student, Roger Gonzales, in April 1988. Two accounts that his organization had transmitted to the Inter-American Commission on Human Rights indicated that the persons who had kidnapped Roger Gonzales had taken him to a clandestine prison of Batallion 3-16, or the "death squad", which officially reported to the Honduran armed forces.

11. The right to freedom of opinion and expression remained the privilege of those who had the means to exercise it. The State and the owners of the media themselves exercised subtler controls that were a new kind of attack on national sovereignty in both the developed and third world countries. The coverage of the conflict in the Middle East and the Persian Gulf, which sought to conceal the truth on the indiscriminate bombing, was one example.

12. It was a well-known fact that Governments used states of emergency to legalize human rights violations in the name of national security, although many did not even use that pretext. In Honduras, for example, although the Constitution in force since 1982 had been suspended for only a few days in April 1988, there were human rights violations every year, two of which had caused that State to be condemned by the Inter-American Court of Human Rights. In 1990, 357 cases of illegal detention, 7 cases of administrative detention and 34 cases of violation of domicile had been reported in Honduras. The same could be said of other electoral democracies in transition towards permanent democracy, or towards the militarism which they were unable to shake off.

13. The impartiality of the judiciary was also a sham for the peoples of Latin America, where scapegoats were sent to appear in court for crimes the military themselves had committed. That was evidenced by the assassination of the Honduran trade-union leader Francisco Bonilla, whose actual perpetrator he (Mr. Custodio Lopez) had denounced before the Inter-American Commission on Human Rights on 8 February 1991, thus invalidating the investigation of a special committee made up of five colonels.

14. It was not sufficient for representatives of States to promise to respect human rights or say they were receiving United Nations advisory assistance in the field. Guatemala, for example, had received advisory services for three years, yet the human rights situation in that country had worsened. Honduras had been widely praised for appearing to comply with the decision of the Inter-American Court of Human Rights, but the victims' relatives had not received compensation until two years later and no account had been taken of the devaluation of the national currency in March 1990. The authorities also refused to pay the interest on a fund created for the children of 2 of the 144 disappeared persons.

15. Mr. Amoo-Gottfried (Ghana) took the Chair.

16. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples), speaking on behalf of Mr. Tshisekedi Wa Mulumba, former Minister of Zaire, said that the régime of President Mobutu was marked by frequent human rights violations, of which Mr. Tshisekedi Wa Mulumba himself had been the victim for 11 years. Zaire had several centres practising torture to terrorize detainees and discourage them from pursuing their political or social demands. Despite the political liberalization announced on 24 April 1990, ill-treatment continued to prevent the people from joining the party of their choice. In particular, the police raided the homes of organizers of political meetings to frighten the population while avoiding accusations of carrying out political detentions. Official statements blamed rival gangs for such activities. The repression did not spare children, and Mr. Tshisekedi Wa Mulumba's entire family had been arrested and exiled along with him. Other political leaders were in the same situation. After arbitrarily detaining Mr. Tshisekedi Wa Mulumba in the Kinshasa central prison, the régime had not hesitated to declare him mentally ill.

17. The Movement against Racism and for Friendship among Peoples confirmed the statements of the International League for the Rights and the Liberation of Peoples, concerning the Lumumbist women. A few days after the events in question, President Mobutu himself had incited his party's youth to strike any woman who demonstrated against the régime. In February 1989 the political police had raped women students while putting down a demonstration at the National Teachers' Institute. Six days after the speech on political liberalization, the police had dealt ruthlessly with members of the Union for Democracy and Social Progress, who had been inaugurating their permanent secretariat. There had been several victims, three of whom had died in hospital.

18. Far from being police blunders, as the régime constantly claimed, those violations constituted a system of government aimed at terrorizing the population and preventing it from exercising its fundamental rights. The international community must condemn the systematic human rights violations

practised by the Mobutu régime, suspend military cooperation with Zaire, send an impartial commission of experts to that country to evaluate the human rights situation and entrust an international commission with investigating the massacre of students at the Lubumbashi campus.

19. In conclusion, a tribute was due to the African Commission of Health and Human Rights Professionals, which had set up research and information centres on torture and repression in Guinea, Zaire and the Congo.

20. Mr. GOMES (Movement against Racism and for Friendship among Peoples) said that he was a 21-year-old student whose family nad left East Timor on 6 September 1990 with the help of the International Red Cross. He had been six years old and in Dili when East Timor had been invaded by the Indonesian armed forces on 7 December 1975. Many Timorese, mainly women and children seeking refuge, had been killed on that occasion.

21. In 1989, numerous Timorese had been imprisoned and tortured in preparation for the visit of Pope John Paul II. President Suharto's son-in-law had personally taken part in the torture. Following a demonstration after the mass celebrated by the Pope on 12 October, many persons had been arrested and tortured. He himself had sought refuge together with other young people in the Catholic Bishop's residence on 26 October. The following day, the military had threatened to take away the Bishop unless the persons who had taken refuge in the Bishop's residence came out. After giving themselves up and being taken by bus to the police station with the Bishop, most of his companions had been released, but he himself and a few others had been transferred to other places of detention and tortured to make them say that the Timorese priests had instigated the demonstrations during the Pope's visit. The interrogations and torture had lasted 15 days. On 6 February he had been set free, on condition that he presented himself for a weekly check.

22. Special troops, brought in especially from Java, had begun to attack people at night in the streets of Dili, and the military campaign against the resistance, which had been fighting for 15 years in the mountains, had recently been intensified. The United Nations recognized the right of the Timorese to self-determination, but what did it do to defend them? It was to be hoped that the laws and principles of international law would be valid for all.

23. In conclusion, he drew the Commission's attention to the situation of a 21-year-old student who had been arrested at the same time as himself - José Manuel da Silva Fernandes, who had now been rearrested and taken away to an unknown destination.

24. Mr. Bernales Ballesteros (Peru) resumed the Chair.

25. Mr. PONRAJAH (Liberation) condemned the massacre and arrests of the members of the Free Aceh Movement in North Sumatra. A military commander had made it clear that killing "rebels" ("GPKs") was official policy; the people had been given instructions to that effect. The press - the daily newspaper Tempo, published in Jakarta, and Reuters - had published several accounts by villagers and peasants who had discovered many unidentified corpses with injuries or signs of torture, by roads, along rivers or in plantations, without any official investigation being conducted. The "rebel" detainees were nearly always tortured and often disappeared, with the families not being

informed because that would be "impractical". The commonest forms of torture were squeezing testicles with pliers, inflicting burns with cigarettes or hot irons and nailing down the victim's hand as if for crucifixion.

26. In Sri Lanka, the plight of detainees in the North-East Province was more and more disturbing. In the north, government forces were turning the towns and villages they occupied into slaughterhouses, according to the Catholic Bishop of Jaffna, and massacring innocent civilians, sometimes even inside the churches. In the Eastern Province, the situation was worse still. Four thousand of the 6,000 deaths that had been recorded in recent months had occurred there.

27. After giving some examples of arrests, abductions, executions, assassinations and disappearances, particularly of Muslim refugees and young Tamils, he added that torture and rape were common occurrences and that the number of deaths was increasing with each passing day.

28. As for East Timor, the annexation of that province had led to continuing repression. There too, arrested persons were disappearing without trace and young people were being arrested, tortured and then released before the International Committee of the Red Cross could observe the results of the torture.

29. Liberation requested the Commission to call upon the Indonesian Government to instruct its security forces in Aceh to end the arrests, torture and killings and publish a list of all persons arrested or detained; to investigate reports of summary executions and disappearances and punish those responsible for the events in Aceh and East Timor; to allow a team of independent observers representing international human rights organizations to visit Aceh and East Timor; and to take steps to halt human rights violations.

30. Mr. KALKE (International Association against Torture), referring first to the situation in the United States, said that in December 1990, a meeting of jurists and human rights experts from eight countries had held three days of hearings which had resulted in the conclusion that the United States did indeed have political prisoners and that their human rights were being violated. The International Association against Torture (IAAT) was particularly interested in how the United States created political prisoners, the consequences of their politically motivated surveillance and the "collateral damage" to those around them.

31. A group of white North American revolutionaries, the "Ohio 7", had been convicted of bombing military installations to protest against the United States' incursions into the Americas and its support of South Africa's apartheid policies. After the Ohio 7 had been arrested, their children had been kidnapped and held by the FBI in order to blackmail the parents into cooperating for security reasons; the FBI had also subjected the children to interrogations, attempted bribes and threats in order to obtain information.

32. Another example was that of the Black Men's Movement against Crack (BMM), begun in 1986 to fight the spread of crack in the black community of New York. Its stance of self-protection against drugs, combined with the presence of former political prisoners in its midst, had soon brought it under surveillance by the New York police, which had set up a special desk to

monitor political activity in the African-American community. When a series of news articles had exposed that illegal intelligence operation, the Mayor and Police Commissioner of New York had defended themselves by admitting only to an investigation of the former political prisoners. Shortly thereafter, however, the police had claimed it had found hand-guns (conveniently without fingerprints or serial numbers) in the car of three of the group members. After a trial, without lawyers, in a racist county, before a jury of 11 whites and 1 black, all 3 had been convicted and sentenced to prison terms of up to 12 years.

33. That was how the United States law enfor ement and criminal justice systems pursued political activists for non-political offences, as did the FBI with its COINTELPRO (Counter-Intelligence) Programme, aimed at the black and native American liberation movements. That policy of detention, harassment and terror had been used during the invasion of Puerto Rico in August 1985: 300 FBI agents had broken into 50 homes, arrested 15 independentistas, exiled them 2,000 miles away and held them for up to 4 years without trial. Those were not aberrations, but part of a covert apparatus that violated the fundamental human rights of people struggling for a better life for the many. His organization reiterated its request to the Commission to appoint a Special Rapporteur to investigate the conditions of political prisoners within the United States. The use of similar mechanisms in other parts of the Americas and in Africa showed the hand of the teacher in the work of the pupils.

34. The situation in Guatemala remained distressing, since the Working Group on Enforced or Involuntary Disappearances had reported 74 disappearances in 1990, an increase of 42 per cent over the previous year. All those persons had also probably been tortured. However, many cases of disappeared persons were not reported, particularly in the countryside, given the families' fear of reprisals from the security forces. According to witnesses, it was often members of the military, dressed as civilians, who were responsible for the kidnappings. The report of the Independent Expert for Guatemala, Mr. Tomuschat (E/CN.4/1991/5 and Add.1), contained detailed information on massacres, disappearances and ill-treatment of all Guatemalans, but more specifically peasants and indigenous persons. The case of Guatemala was well known to the Commission, and for that reason the Commission should deal with Guatemala under item 12 of its agenda as one of the countries where human rights were violated most systematically. His organization also recommended that a Special Rapporteur should be appointed by the Commission to work with the forces in Guatemala striving for the defence of human life and human rights for the Guatemalan people.

35. The situation of political prisoners in Honduras showed no improvement. While the Government denied the existence of political prisoners, legislation had been discussed in the Honduran Congress in December 1990 concerning the situation of more than 300 prisoners who had been arrested because of their opposition to unjust practices, primarily concerning land distribution. In addition, according to information gathered by his organization, ill-treatment and torture were common practices in Honduran prisons. In some cases prisoners were shot and left at the roadside. In almost all cases, the culprits went unpunished and the victims had no recourse or means of defence. How much longer would the Commission remain silent over the fate of that people?

36. In Chile, despite the change in Government, there were still 250 political prisoners who had been convicted by the military courts of the previous régime and whose cases had not yet been reviewed. In addition, new political prisoners had been taken, in particular the editors of two major Chilean journals, although the present Government refused to recognize them as political prisoners. Furthermore, severe measures had been taken against 150 persons who had carried out a hunger-strike in the Santiago public jail to draw national and international attention to the plight of their family members who were being detained for political reasons and who were permanently deprived of visiting rights. The new leaders' commitment to defend human rights was certainly very encouraging, but the facts of the matter remained, and it had to be asked whether that was the kind of democracy the people of Chile had voted for and the kind of respect for human rights the Commission had expected when it had endorsed the new Chilean Government in March 1990. The Commission must address those issues in order to aid those democratic forces truly concerned with the preservation of human rights.

37. While the imprisonment and torture of persons expressing dissatisfaction with their Governments was not an exclusively United States phenomenon, it was obvious that those responsible for human rights violations in the various countries mentioned used weapons and methods that had proved their effectiveness in repressing black resistance movements in the United States. IAAT maintained that the United States Government was responsible for the assassination of black leaders such as Martin Luther King, Malcolm X and Fred Hampton. It urged the Commission to accept the recommendations it had put forward and again invited the United States to participate in the democratic procedures of the Commission and exercise its right to reply should it dispute the facts described.

38. Mrs. SLESZYNSKA (Christian Democratic International) congratulated the Working Group on Enforced or Involuntary Disappearances for the clarity of its report (E/CN.4/1991/20 and Add.1), which indicated that of 509 reported cases of disappearances in 1990, 401 (or 80 per cent) had occurred in Latin America, more particularly Peru and Colombia, and the rest in Asia, especially the Philippines and Sri Lanka.

39. With two exceptions, those countries were torn by revolutionary guerrilla movements, which clearly proved that there was a link between mass disappearances and uprisings. It was true that the emergence of such rebel groups was due to various causes such as age-old injustices, extreme poverty and the ineffectiveness of democratic mechanisms, but far from resolving those problems, rebel action brought about an increase in systematic repression and the establishment of paramilitary forces which often turned into "death squads". The guerrillas reacted by forming their own "execution" units to punish those who collaborated with the Government and to settle their disputes with the dissident factions of their own groups. What was more, when they did win their struggle, such movements, which were based on extremist and anti-democratic doctrines, often set up revolutionary régimes that used measures even more arbitrary than those they had been claiming to fight.

40. For that reason, Christian Democratic International was convinced that in order to struggle against disappearances and other serious human rights violations, it was not sufficient to denounce them and to bring pressure to

bear on the Governments of the countries concerned; negotiation should be encouraged between Governments and rebel groups with a view to restoring peace in those countries. That having been said, it was important, on the one hand, to punish those responsible for human rights violations, and on the other, to protect the individuals and humanitarian organizations that supplied information on disappearances against any type of reprisals. The international community must be absolutely clear on that point.

41. Her organization wished to stress that it did not accept the link established in paragraphs 139 and 168 (f) of document E/CN.4/1991/20/Add.1 between the view expressed by the Catholic Bishops Conference of the Philippines and the repression practised against militant human rights bodies and individuals in that country. In fact, the bishops had simply referred to the "manipulative use of human rights violations" and set forth ethical criteria that appeared to be beyond criticism. It might be useful to distribute the text of their statement to the Commission participants, since the Catholic Bishops proposed some solutions to the serious problems in disseminating information on human rights violations in third world countries, particularly those where guerrilla warfare existed.

42. Finally, her organization would like to draw the Commission's attention to the situation of Arkadi Manoucharov, a member of the Armenian Parliament, and Stepan Khamara, a deputy in the Ukrainian Parliament, who were currently in prison. Mr. Manoucharov had been arrested on false pretences in violation of articles 106 and 124 of the Soviet Constitution, which guaranteed parliamentary immunity. In addition, he was still being held after more than two years, in violation of article 97 of the Constitution, which limited pre-trial detention to nine months. Christian Democratic International had already contacted the Soviet autorities in an unsuccessful attempt to obtain his release. Stepan Khamara had also been arrested on false charges on 17 November 1990, in the Ukrainian Parliament itself. The lifting of Mr. Khamara's parliamentary immunity "decided on" by the Parliament at a time when there had been no quorum since all the opposition deputies had left the room was therefore arbitrary and illegal, as was his subsequent arrest. Her organization hoped that the Commission would agree to look into the case of the two parliamentarians, so that they could be rapidly released.

43. Mr. JANGE (Gambia) regretted that some countries still resorted to the degrading and inhuman practice of torture, thereby demonstrating not only their total disregard for the relevant international instruments prohibiting torture, but also their complete disregard for the dignity and sanctity of the human being. Accordingly, his delegation supported the intensification of the campaign against torture suggested by the Special Rapporteur on the question of torture, Mr. Kooijmans, in his report (E/CN.4/1991/17). That campaign was certainly not a waste of time and, as the Special Rapporteur had indicated in his conclusions, it had already led to a universal awareness that torture was one of the most heinous violations of human rights because it annihilated man's most essential characteristic: his personality. The Commission might also consider adopting a more vigorous follow-up mechanism for countries where cases of torture were reported. His delegation unreservedly endorsed all the recommendations made by the Special Rapporteur and hoped they would find concrete expression which would go a long way towards eradicating torture.

44. His delegation was also deeply concerned about the situation of United Nations staff members, who were currently being detained or had even been killed in some countries. Their treatment was contrary to the most elementary principles of civilized behaviour. Should the perpetrators of such acts be reminded of their international obligations and of the need scrupulously to respect the privileges and immunities of international civil servants? It was vital not to allow the victims of those abductions, disappearances and murders to fade into oblivion.

45. His delegation commended the Working Group on Enforced or Involuntary Disappearances for the work it had performed and the manner in which it had carried out its mandate, and encouraged all Governments which had cooperated with it to continue to do so. It urged all those that had not cooperated to reconsider their position and hoped that they would heed its appeal. Efforts to combat disappearances should continue, as statistics showed that the problem had not abated. The measures adopted since 1980 to achieve that end were apparently paying dividends, but it was necessary to remain vigilant. His delegation approved the recommendations made by the Working Group and hoped that the draft Declaration on the Protection of All Persons from Enforced or Involuntary Disappearances, which the Sub-Commission had transmitted to the Commission, and which should mark another milestone in the efforts to combat that plague, would be adopted.

46. Respect for certain minimum standards relating to trial and conditions of detention was essential for the proper administration of justice. Accordingly, it would be valuable to draw up relevant guidelines or model texts to provide countries with a yardstick to measure performance in the administration of justice. However, drawing up and adopting standards was one thing, implementing and respecting them was another.

47. Mr. VIGNY (Observer for Switzerland) noted with regret that the scourge of disappearances had continued in 1990, and that, according to the eleventh report by the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20 and Add.1), it was the most widespread serious human rights violation in Latin America, and in particular in Central America. Next on the list came Asia, above all the Middle East, and the Indian sub-continent, followed by some countries in the Far East, while Africa was less affected. It was, however, encouraging that an increasing number of the 46 States, in particular in South America, where enforced or involuntary disappearances had been recorded in 1990, cooperated with the Working Group. However, several States in other regions of the world had not done so, while others that claimed to cooperate with the Working Group did not actually provide clear replies to the questions put to them. The latter group essentially comprised countries in Africa, a region that was relatively unaffected by the practice. His delegation urgently called on Angola, Burkina Faso, Chad, Ethiopia, Guinea, Mauritania, Morocco, Mozambique, South Africa and Uganda as well as Afghanistan, Haiti, Iran, Iraq, Lebanon, Nepal, Seychelles and Syria to cooperate with the Working Group in 1991 so as to help it elucidate as many cases of disappearance as possible.

48. On the other hand, his delegation was gratified that Colombia, Guatemala, Peru and the Philippines had authorized the Working Group to examine the situation on the spot, and that El Salvador and Sri Lanka had proposed to

do so in 1991. It none the less regretted that Peru and Guatemala had not yet followed up the observations made by the Working Group after its visit to those countries and hoped that in the future all States visited would implement the Group's recommendations. One means of persuading them to do so would be to make a request, in the relevant resolution which the Commission would adopt at its current session, that the follow-up of the visits to each country concerned should be ensured. His delegation recalled, moreover, that in accordance with Commission on Human Rights resolution 1990/76, all Governments receiving representatives of United Nations human rights bodies, such as the Working Group on Enforced or Involuntary Disappearances, should allow unhampered contacts between private individuals and such representatives and remove all legal and practical obstacles which would unduly prevent or discourage such contacts from taking place. The representatives of the bodies in question were, for their part, requested to take urgent steps to help prevent the occurrence, in the countries concerned, of intimidation or reprisal against individuals or groups that cooperated with them. Switzerland considered that the urgent action procedure established by the Working Group on Enforced or Involuntary Disappearances needed to be further strengthened in order better to protect the potential victims of reprisals, and would cooperate closely with the Working Group and those States that shared its view, in order to achieve that objective.

49. With regard to the impunity enjoyed by those responsible for disappearances, which was the main contributory factor to the phenomenon, his delegation considered that the domestic laws, which in some countries provided impunity for the perpetrators of serious human rights violations, including disappearances, for political reasons, were occasionally justified. However, it considered that the amnesties granted to former leading politicians were likely to contribute to the subsequent recurrence of disappearances.

50. Lastly, the adoption without delay of the draft Declaration on the Protection of All Persons from Enforced or Involuntary Disappearances would constitute a significant international political act to support more effectively the efforts of all concerned, i.e. the victims of the violations and their relatives, non-governmental organizations active in that sphere, the Working Group and all those States that had sincerely committed themselves to combating the scourge. His delegation very much hoped that all the obstacles to the adoption of that important Declaration would rapidly be removed.

51. His delegation also endorsed the recommendations made by Mr. Louis Joinet in his revised report on the practice of administrative detention. His delegation considered that it was in respect of preventing and reporting violations of international standards concerning the legality of all forms of detention that there was the greatest need to develop suitable machinery. With regard to the four recommendations made by Mr. Joinet, his delegation preferred the second as it would make it possible to consider detention both by an administrative authority and by a judicial authority. Accordingly, it supported the idea of appointing a special rapporteur with a mandate covering all forms of arbitrary or unauthorized detention, who would be responsible for gathering information on the subject from Governments, intergovernmental institutions, non-governmental organizations and other reliable sources.

52. In his report (E/CN.4/1991/17), Mr. Kooijmans, Special Rapporteur on the question of torture, made an assessment of five years of activity. His delegation commended the quality of the report and wished to focus on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had been submitted to the Commission by Costa Rica in document E/CN.4/1991/66. The document provided for the establishment, on the basis of a treaty, of a body composed of independent experts that could visit any place of detention at any time. Such a non-judicial mechanism would have a highly effective preventive and deterrent effect and would be based on cooperation between the authorities of the country visited and the international experts, who could make recommendations designed to ensure better protection of detainees against torture. It would make it possible to eradicate the practice of torture, which had been described by the Special Rapporteur as the scourge of the second half of the twentieth century.

53. More than 50 countries were still affected, and the numerous mechanisms established at the international level were still not sufficient to put an end to the scourge. Switzerland considered that only a binding preventive mechanism, that made provision for visits to places of detention by international experts, would be capable of bringing about a marked reduction in cases of torture throughout the world. Accordingly, it supported the draft optional protocol and invited the international community to consider it attentively, in the hope that it would be possible to discuss it within the Commission, in a working group to be set up the following year.

54. Ms. BIIKEY (Observer for New Zealand) said that New Zealand strongly supported the mechanisms established by the United Nations in the field of human rights, in the belief that they made a vital and practical contribution to protecting those rights. Her delegation had once again been sickened by the number of cases of torture detailed in Mr. Kooijmans' report, and shared the conviction that torture was an absolute denial of human dignity.

55. Despite the large number of international instruments prohibiting torture, in particular the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, States still needed to cooperate in order to implement the provisions of those instruments. The conclusions and recommendations detailed in the report of the Special Rapporteur were extremely valuable and her delegation strongly recommended that all Governments should study them carefully. In his report, Mr. Kooijmans identified a number of practices, including incommunicado detention, that encouraged the use of torture. A strict prohibition of incommunicado detention would undoubtedly be a means of averting excesses.

56. States had a responsibility to ensure that law-enforcement personnel were made aware of the obligation to respect the physical and mental integrity of detainees and that they would be punished if they failed in that duty. Education programmes on human rights should be made an essential part of their training. The Centre for Human Rights should be commended for its efforts under the advisory services programme. The road to recovery was slow and

painful for the victims of torture. New Zealand strongly urged Governments to follow its example and to contribute to the United Nations Voluntary Fund for Victims of Torture.

57. While acknowledging that the efforts by the United Nations to protect human rights did not always yield tangible results, her delegation was encouraged by the downward trend in disappearances, detailed in its report by the Working Group on Enforced or Involuntary Disappearances. It considered, however, that not too much should be made of those statistics, particularly because the number of reported cases of disappearance remained extremely high.

58. The activities of the Working Group could not be truly effective without State cooperation. It was thus important that those Governments which had not yet done so should respond to the communications sent to them by the Working Group, in particular under the urgent action procedure implemented in accordance with resolution 1990/76.

59. Her delegation congratulated the Sub-Commission on the elaboration of a draft Declaration on the Protection of All Persons from Enforced or Involuntary Disappearances.

60. Anyone reading the reports on torture and disappearances was bound to be struck by the impunity often enjoyed by the perpetrators of those acts, who were frequently servants of the State. It was incumbent upon States to ensure that all such allegations were thoroughly investigated, and the guilty punished.

61. By acceding to the Charter of the United Nations, all States had undertaken to promote universal respect for human rights and fundamental freedoms. Nothing could justify torture or enforced or involuntary disappearances. The efforts of the United Nations would be vain until such time as each State took the necessary steps to ensure that such practices were never used to terrorize its inhabitants.

62. Mr. HJELDE (Observer for Norway) said it was paradoxical that the Commission should still have on its agenda such simple and fundamental issues as torture and disappearances, while it also dealt with complex matters of far less direct relevance to human dignity. No Government would deny the need to respect the physical and mental integrity of citizens.

63. However, the realities in too many regions of the world justified the Commission's attention to that item. His delegation noted that the highly informative reports of the Special Rapporteur on the question of torture (E/CN.4/1991/17) and the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20) testified not only to the raison d'être of the Commission's fact-finding and monitoring mechanisms, but also to their shortcomings and the need to strengthen them.

64. In his report on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Kooijmans made an assessment of five years' activity and noted that, although torture was universally denounced as one of the most heinous violations of human rights, it continued apace. He also pointed out that States endorsed the campaign against torture at the international level, while authorizing certain national bodies under their responsibility to use torture as a political tool.

65. His delegation shared the Special Rapporteur's view that the international community should increasingly exert pressure on those Governments that authorized the use of torture as a political tool, and it would continue to contribute to that effort. Mr. Kooijmans recommended, inter alia, the adoption of measures aimed at abolishing the impunity of torturers, the development of training programmes for law-enforcement personnel and the use of the advisory services of the Centre for Human Rights.

66. Turning to the report of the Working Group on Enforced or Involuntary Disappearances, his delegation noted that the number of disappearances remained high, even though the trend seemed to be downward. As the Working Group had pointed out, the impunity enjoyed by those responsible contributed to the development of the phenomenon. It was to be hoped that with the advance of democracy, those who exercised power at different levels would feel more concerned, thereby reducing the risk of impunity. A number of non-governmental organizations had expressed concern about a tendency in the new democracies not to prosecute agents of the former régime responsible for enforced or involuntary disappearances, doubtless in order to favour national reconciliation and consolidate their stability. His delegation shared the view of the Working Group that it was difficult to accept that such a concern should prevent investigations into the fate or whereabouts of missing persons. It appealed to the Governments in question to do their utmost to help the families and friends of missing persons to discover their whereabouts.

67. His delegation considered that the Special Rapporteur and the Working Group both played a very important role in the international surveillance of those phenomena. While commending the progress made in devising more effective methods, it stressed that their effectiveness to a large extent depended upon the willingness to cooperate of the Governments concerned. It was encouraging to note that more Governments had replied to the requests for information by the Special Rapporteur, and that few of them did not cooperate with the Working Group. In particular, the Government of the Philippines, which had received members of the Working Group and the Special Rapporteur, should be commended. The Commission and the international community should remain vigilant, in particular with regard to reprisals against those individuals or organizations which had cooperated with the Working Group or the Special Rapporteur.

68. His delegation was concerned that some Governments did nothing to prevent torture and disappearances in their countries. They should at least answer the urgent appeals and correspondence from the Special Rapporteur and the Working Group. He drew attention to the fact that on 16 October 1990 the Special Rapporteur had sent an urgent appeal to the Government of Kenya in connection with the arrest of Koigi wa Wamwere, a leader of the Kenya Patriotic Front, and that the appeal was as yet unanswered.

STATEMENT BY MR. JESZENSZKY, MINISTER FOR FOREIGN AFFAIRS OF HUNGARY

69. Mr. JESZENSZKY (Minister for Foreign Affairs of Hungary) recalled that he represented the first freely and democratically elected Government of Hungary since 1947, and evoked his first contacts with the Commission two years previously, when he had appeared before it to defend the human rights flouted in Ceaucescu's Romania. The disappearance of totalitarian régimes and of East-West tension should allow mankind to devote itself to pursuing peace,

justice and respect for human rights. Events in the Gulf had interrupted that dream, but once the war came to an end, the global community would set its solidarity, wisdom and strength at the service of a new world. Hungary was committed to the values of democracy, based on the free will of the individual and the rule of law; it also believed in prosperity through economic liberty and social justice for the benefit of all, without any distinction.

70. The people of Hungary were aware of the need to start in their own backyard, and were in the process of incorporating the principles set out in the international human rights instruments into national legislation and practice. Hungary had ratified many international instruments and recognized the competence of all the United Nations bodies that dealt with violations of human rights, including those that occurred on its own territory, and was currently drawing up measures to facilitate their effective observance.

71. Hungary's foreign policy gave priority to defending human rights and protecting the victims of human rights violations. Compliance with universally recognized standards and rules by all and in all places was both a right and a duty, and each country was accountable to the United Nations, and in particular to the Commission on Human Rights. Hungary would resolutely oppose those who, sheltering behind the principle of non-intervention, refused to listen to the calls of the international community for respect for human rights, as violations of universally recognized rights could not be considered internal affairs. Moreover, in the past the United Nations had, quite legitimately, kept the question of Hungary on its agenda following the 1956 events, and had interceded in respect of human rights violations committed by many military dictatorships as well as in Poland, and more recently in Afghanistan, Iran, El Salvador, Myanmar, Cuba, Romania, Iraq and occupied Kuwait.

72. In that connection, he recalled that his country condemned Iraq's aggression against Kuwait and the human rights violations committed by Iraq against its own population and its prisoners of war. He called on Iraq to comply with the relevant resolutions of the Security Council in order to restore Kuwait's sovereignty and peace in the region.

73. Hungary had also condemned the action by the Soviet forces in the Baltic Republics, as it was contrary to the Charter of Paris. He called on all parties concerned to seek an exclusively peaceful solution to their disputes.

74. Two years previously, Hungary had condemned the human rights violations in Romania, and would be the first to acknowledge, when the time came, that the situation had returned to normal. The situation had certainly begun to improve in Romania, although the Special Rapporteur had reported, with great objectivity, continuing violations, including the impossibility of acquiring an education in the mother tongue and discriminatory measures against certain minorities.

75. Hungary had consistently advocated, in all international forums, the protection of minorities and welcomed the growing importance currently attached to the question, and in particular the signing of the Charter of Paris, in which the rights of minorities were recognized as universal human rights. It had initiated, within the framework of the United Nations, the elaboration of an international instrument on the protection of minorities,

which might be based, in particular, on the International Covenant on Civil and Political Rights and the relevant documents of CSCE. Better use had to be made of the rich contribution which minorities made to contemporary societies, and their rights and identity should be protected by international guarantees. Such institutionalized protection would undoubtedly give a new impetus to international cooperation and enhance confidence in inter-State relations.

76. The leading role played by the United Nations, and in particular by the Commission on Human Rights, in protecting human rights and fundamental freedoms had to be further strengthened. Accordingly, Hungary noted with satisfaction that the General Assembly had decided, in resolution 45/155, to convene a high-level World Conference on Human Rights in 1993. Hungary would contribute actively to the preparations for that World Conference, which, it was convinced, would be an opportunity for all Member States to renew their commitment to the universal promotion of human rights and fundamental freedoms. The Government of Hungary offered to host the Conference in Budapest, in the invigorating atmosphere of the reborn Hungarian democracy.

77. The idea of a free individual in a free world was close to Hungary's heart. All victims of human rights violations, without exception, should receive attention, as behind each victim there lay a tragedy. The international community should show solidarity towards victims and ensure that those responsible were brought to account: otherwise, it would be failing in its duty.

78. Mr. BENHIMA (Morocco), speaking in exercise of the right of reply, pointed out that the text of the statement by the representative of Centre Europe-Tiers Monde (CETIM), which had been distributed, was incomplete. He asked whether that was an oversight, or whether the author had thought it wiser not to put on record what she had said aloud. He considered that the representative of CETIM owed the Commission an explanation.

79. The representative of CETIM had expressed "surprise at the interest shown by the Moroccan Government in hosting the forthcoming World Conference on Human Rights". At no time had the Moroccan delegation formally or informally addressed the issue, which he considered to be both premature and the responsibility of a body other than the Commission. The author of the statement had acted either dishonestly or irresponsibly in transmitting information she had not attempted to verify. It was comforting that the General Assembly had paid tribute to the Moroccan delegation, which, together with other delegations, had worked for many years to have resolution 45/155 adopted.

80. Turning to the alleged disappearances of "Sahrawis", he noted that the International Federation of Human Rights and the Centre Europe-Tiers Monde quoted different figures. The Centre Europe-Tiers Monde based its figures on the census carried out by a "Sahrawi Red Crescent". The Working Group on Enforced or Involuntary Disappearances had, for its part, brought 91 cases to Morocco's attention and indicated that the "Association of Relatives of Sahrawi Prisoners and Detainees" had reported almost 400 cases of disappearance. He said that the objective of that Association, which was nothing other than a Frente POLISARIO clone, was to manipulate facts and communicate false information together with exaggerated figures. He denounced

the use of humanitarian concerns for political propaganda purposes, and expressed surprise that the Working Group had only been informed in early summer 1989 of disappearances that apparently dated back to 1975. It seemed that the disappearances reported at Mahbès had occurred at a time when the locality was not under Moroccan jurisdiction.

81. The truth should be sought in the camps where the Frente POLISARIO held thousands of persons hostage, and he invited the non-governmental organizations with access to those camps to investigate the human rights violations denounced by all persons who had been able to escape from them, including former leaders of the separatist organization. The disarray of that organization, as a result of the process initiated by the United Nations in order to organize a referendum on self-determination, and its gloomy future, had led it to focus its attacks against Morocco on the issue of human rights, with help from a number of non-governmental organizations given to unconsidered judgements and a casual approach to the truth. Nevertheless, the Ministry of Justice had carried out a detailed inquiry, which had revealed that the names of the persons reported as missing did not appear on any prison registers. The competent Moroccan authorities were nevertheless pursuing their investigations into all the allegations of which they had been informed.

82. To conclude, the representative of the International Federation of Human Rights (FIDH) had clearly been mistaken as to his destination during his mission in 1990: the locality he had visited was not situated in Western Sahara.

83. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, said that his delegation had listened attentively to the statement by the Hungarian Minister for Foreign Affairs, which had repeated a number of accusations already made against Iraq by the United States and the members of the coalition. His delegation regretted that the Minister had not been more even-handed when he had evoked the need to respect international conventions: he had not asked the United States and the members of the coalition to respect the Third Geneva Convention, for had he done so, he would also have had to ask them to respect the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. The United States and its allies had completely flouted those Conventions, as well as the principles of international humanitarian law, by reducing the Iraqi people to famine and bombing civilian populations and monuments.

84. The Hungarian Minister for Foreign Affairs had said that the resolutions of the Security Council should be complied with, but he had failed to mention that they had been adopted under pressure, and that three members of the Council had violated those illegal resolutions by going beyond their provisions, as they had bombed economic and civilian facilities. Such was the real reason for that dirty war. He noted that a large number of international resolutions had remained a dead letter and been filed away, as the United States and its allies were not interested in them. His delegation would have liked Hungary to continue its policy of promoting international humanitarian law and respect for objective criteria. Recently, however, the attitude it had adopted towards the Arab and Palestinian peoples within the Commission was in direct contradiction with the remarks made by its Minister for Foreign Affairs regarding respect for human rights.

85. Ms. FERRIOL (Cuba), speaking in exercise of the right of reply, regretted that the Hungarian Minister for Foreign Affairs had likened Cuba to a military dictatorship and had compared it to other countries in the East, including his own. Cuba's past was in no way comparable to that of the Eastern countries, and its current policy did not involve renouncing socialism. Moreover, there were no human rights violations in Cuba and the Cuban people had no reason to be embarrassed about its past: Cubans did not tolerate shameful régimes, as they had shown by overthrowing the pro-United States military régime of Batista in 1959. In Cuba, socialism was synonymous with independence, and the defence of the fatherland and of self-respect was ensured by the people in arms. Accordingly, the Government of Cuba did not have to obey the great Powers, whoever they might be.

The meeting rose at 12.55 p.m.